

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Petters Company, Inc., et al.,

Debtors.

(includes:

Petters Group Worldwide, LLC;

PC Funding, LLC;

Thousand Lakes, LLC;

SPF Funding, LLC;

PL Ltd., Inc.;

Edge One LLC;

MGC Finance, Inc.;

PAC Funding, LLC;

Palm Beach Finance Holdings, Inc.)

Jointly Administered under

Case No. 08-45257

Court File No. 08-45257

Court File Nos.:

08-45258 (GFK)

08-45326 (GFK)

08-45327 (GFK)

08-45328 (GFK)

08-45329 (GFK)

08-45330 (GFK)

08-45331 (GFK)

08-45371 (GFK)

08-45392 (GFK)

Chapter 11 Cases

Judge Gregory F. Kishel

Douglas A. Kelley, in his capacity as the
Court-appointed Chapter 11 Trustee of Debtors
Petters Company, Inc.; PC Funding, LLC; and
SPF Funding, LLC,

Plaintiff,

vs.

Opportunity Finance, LLC; Opportunity
Finance Securitization, LLC; Opportunity
Finance Securitization II, LLC; Opportunity
Finance Securitization III, LLC; International
Investment Opportunities, LLC; Sabes Family
Foundation; Sabes Minnesota Limited
Partnership; Robert W. Sabes; Janet F. Sabes;
Jon R. Sabes; Steven Sabes; Deutsche
Zentralgenossenschaftbank AG; West
Landesbank AG; WestLB AG New York
Branch; and The Minneapolis Foundation,

Defendants.

ADV. NO. 10-04301

STATEMENT OF UNIQUE ISSUES

JURY TRIAL DEMANDED

The following is submitted pursuant to the Court's April 9, 2012 Order for Scheduling Conference on "Unique Issues" Under Motions for Dismissal in Trustee's Avoidance Litigation (the "Order"), in ADV No. 10-4301, in which WestLB AG, New York Branch ("WestLB") is a defendant.

In response to the Order, WestLB respectfully sets forth the following unique issues raised in ADV No. 10-4301:¹

1. Whether the Trustee has standing to pursue fraudulent transfer claims on behalf of PCI, PC Funding, or SPF Funding.

2. Whether the Trustee's Amended Complaint should be dismissed on the ground that its alter-ego and "reverse veil-piercing" allegations are legally deficient and not recognized by applicable law.

3. Whether the repayment of a secured debt is a "transfer" that may be subject to avoidance.²

4. Whether the Trustee has failed to meet his burden of pleading claims against WestLB, pursuant to *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009) and *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007), with particular respect to (a) the allegation that WestLB is an initial or subsequent transferee of certain transfers, and (b) to the extent the Trustee is relying upon PCI for standing, any initial transfers made to PC Funding or SPF Funding that were subsequently transferred to WestLB.

¹ This statement is identical to the statement filed by WestLB on August 16, 2011 [Dkt. No. 1309].

² The Trustee acknowledges that issues (1), (2), and (3), raised in ADV No. 10-4301, are unique by separately responding to them, rather than addressing them in his Omnibus Response. See ADV No. 10-4301, Docket No. 45, at p. 2.

5. Whether, to the extent the “Ponzi Scheme Presumption” applies,³ to what extent such presumption of fraud impacts a subsequent transferee’s ability to take in good faith and without knowledge of the voidability of the transfer avoided, pursuant to 11 U.S.C. § 550(b)(1).

6. Whether the fact that WestLB transacted only with a bankruptcy-remote and/or special purpose entity, that in turn only transacted business with a bankruptcy-remote and/or special purpose entity, provides additional bases for dismissal of the Trustee’s claims against WestLB beyond the bases to be identified in oral argument during the common-issues hearings.

Dated: May 4, 2012

DORSEY & WHITNEY LLP

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Attorneys for WestLB AG, New York Branch

³ Or to the extent the “Ponzi Scheme Presumption” applies to lending transactions, as opposed to merely investment transactions.

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Branch; and The Minneapolis Foundation,

Defendants.

ADV. NO. 10-04301

CERTIFICATE OF SERVICE

I, Elizabeth A. Hulsebos, certify that on May 4, 2012, I caused the foregoing WestLB AG, New York Branch's Statement of Unique Issues to be served electronically upon all parties who have requested such service in this case by filing the same via ECF in accordance with the Court's Order of April 9, 2012.

Dated: May 4, 2012

DORSEY & WHITNEY LLP

By: /e/ Elizabeth A. Hulsebos
Elizabeth A. Hulsebos (#0390389)